

# LEOFF Retirement System

## Plan 1 Disability Benefits

The provisions governing your disability benefits are contained in the Revised Code of Washington (RCW) Chapter 41.26 and the Washington Administrative Code (Chapters 415-104 and 105 WAC). This publication summarizes those provisions. It is not a complete description of the law. If there are any conflicts between what is written in this publication and what is contained in the law, the applicable law will govern.

If you are a member of the Washington State Law Enforcement Officers' and Fire Fighters' Retirement System (LEOFF) and you become disabled, you may be entitled to disability benefits. This publication describes the disability benefits and application procedures for Plan 1 members - those who first joined LEOFF before October 1, 1977.

### What does the disability board do?

Your local disability board:

- Administers the medical services provisions of the Plan, and
- Determines whether a member is disabled and entitled to benefits.

The disability board decides whether medical services are necessary, determines "reasonable" cost, and has authority to designate the provider of the services. The board may deny medical benefits if it finds that the medical services are unnecessary or if it determines that your illness or disability was brought on by dissipation or abuse. For information about how to contact your local disability board, ask your employer.

### Is there a time limit to apply for benefits?

If you become disabled, regardless of your age or years of service credit, you may apply to your local disability board for disability retirement. Your application must be filed within one year of discontinuing your service for disability. It is your responsibility to prove that you are disabled.

### What are disability leave benefits?

If the disability board finds that you are physically or mentally disabled, you will be granted disability leave. During the disability leave period, you will receive:

- An allowance equal to your full monthly salary, payable for up to six months; and
- All other benefits normally provided to active employees.

The disability board has authority to have you examined by a doctor it selects in order to determine the nature and extent of your illness or disability. If you refuse to be examined, you may lose your rights to medical and disability benefits. If the disability board determines that you are no longer disabled, it will cancel your disability leave and order that you be returned to duty.

### Am I eligible for disability retirement benefits?

To be eligible for a disability retirement benefit, you must prove that you are not able to perform the normal routine duties of your position with average efficiency. In your fifth or sixth month of disability leave, you will be examined by one or more physicians selected by the disability board. If the evidence shows that you are still disabled, the disability board may grant you a disability retirement benefit, subject to approval by the Department of Retirement Systems (DRS), (see page 2).

You may voluntarily waive part or all of your disability leave allowance and immediately begin disability retirement benefits if:

- You prove to the disability board that your disability will last at least six months, **and**
- DRS approves the board's decision.

**DRS**  
DEPARTMENT OF  
RETIREMENT  
SYSTEMS

### Review by DRS

According to the law, every order of a disability board granting a disability retirement allowance is reviewed by DRS except the finding that the disability was or was not incurred in the line of duty.

After reviewing the record submitted by the local disability board, DRS may:

- **Affirm** (approve) the board's decision, or
- **Remand** (send back) the case for further proceeding, or
- **Reverse** (deny) the board's decision.

If a disability board's decision is affirmed, you will receive a copy of the Order of Affirmance and a letter telling you when you can expect your first payment. If a disability board's decision is remanded, you will receive a copy of the Order of Remand explaining what the disability board must do before your case can be reviewed again. If a disability board's decision is reversed, you will receive a copy of the Order of Reversal and an explanation of your appeal rights.

### What is my benefit?

Benefits are payable from the day after your disability leave expires until death or recovery from the disability. Benefits are subject to federal income tax unless the disability was incurred in the line of duty. Your disability retirement benefit is equal to 50 percent of your final average salary. You will receive an additional 5 percent for each "eligible child," up to a combined benefit of 60 percent of final average salary.

An "eligible child" is one who is unmarried, under 18 years of age, and:

- Is your natural child, or
- Was legally adopted or your legal ward before benefits are payable, or
- Is a stepchild if that relationship existed before benefits are payable. If you become divorced from the child's parent, your stepchild is no longer eligible under LEOFF law.

A child may continue to be eligible up to the age of 20 years and 11 months while unmarried and attending a school which is approved or accredited by the state in which it is located. A handicapped child, if unmarried, may qualify as eligible regardless of age. Contact LEOFF for more information.

When a benefit has been in effect for at least a year, it is subject to an annual cost of living adjustment (COLA). Each April 1, the COLA is paid on the monthly amount you received for the preceding month (March). If your benefit includes an additional amount for an eligible child, the COLA adjusts both the basic allowance (50 percent of the Final Average Salary) (FAS) and the extra portion (5 percent of FAS) attributable to the child.

When the child becomes ineligible, your benefit must be reduced. The reduction consists of the additional 5 percent of FAS attributable to the child, plus the portion of the annual COLA that has been added to that part of the benefit.

### Are medical examinations required?

Members who are under age 49½ and receiving disability retirement benefits may be required to undergo medical examinations twice each year by a physician who is approved by the disability board. If a retiree under age 49½ refuses to be examined, his or her retirement benefit may be discontinued.

If an examination shows that a retiree under the age of 50 is no longer disabled for the performance of duties, disability benefits will be canceled and the member will be restored to duty. If this happens, the member will be entitled to notice of the board's determination and a hearing before benefits are canceled.

### What if my benefits are canceled?

If you are under age 50 and the disability board cancels your disability retirement allowance **and you return to service with your employer**, you will again earn service credit and become eligible for benefits as an active or vested member:

- When you meet the age and service requirements of the plan, you can receive a service retirement allowance; or

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- If you again discontinue service before age 50 for a reason other than death, disability, or retirement, you may leave your contributions in LEOFF and become eligible for a service retirement at age 50. If you withdraw your contributions, you forfeit all rights to benefits.

If you are unable to perform the duties of your former rank, you may request assignment to a lower rank which has duties you are able to perform. In no event will you be restored to duty at a pay rate that is less than the current pay rate for the position you held at the time you began your retirement.

**If you do not return to service**, your only entitlement will be a refund of the amount of your contributions, if any, over the amount of disability retirement benefits paid to you. If the amount of your benefits equals or exceeds the amount of your contributions, you will not be entitled to a refund.

## Can I convert my disability benefit to a service retirement?

If you recover from your disability after reaching age 50, you may apply to the disability board for a determination that you are no longer disabled. If the board finds that you have recovered from your disability, you will receive your disability retirement benefit or your service retirement benefit, whichever is greater. Contact LEOFF for further information.

For information about working for a Washington public employer that is not covered by LEOFF, refer to the publication *Thinking About Working After Retirement?*

## Will I receive service credit while on disability leave?

You receive service credit for periods of disability leave. If you retire for disability and subsequently return to LEOFF-covered service, you will also receive credit for the period on disability retirement.

## What are my survivor benefits?

Survivor benefits are payable from the day after your death.

### Benefits to Spouse

Your eligible surviving spouse is entitled to survivor benefits if you die:

- In service or while on disability leave, or
- After you begin a disability retirement.

To be eligible, your spouse must be married to you:

- For one year before your disability retirement begins, or
- At the time of death, if you die in service or while on disability leave.

Your eligible surviving spouse will receive a monthly benefit equal to 50 percent of your final average salary for his or her lifetime. The amount of your spouse's benefit will be increased by 5 percent of final average salary for each eligible child, to a maximum of 60 percent of final average salary.

If your children have a legal guardian, the amount attributable to the children will be paid to the guardian. If there is no guardian but you have created a trust for the children's benefit, the amount attributable to the children will be paid to the trust.

### Benefits to Surviving Children

If there is no eligible surviving spouse or the spouse receiving benefits dies, the eligible children will receive benefits as follows.

- For one child, a benefit equal to 30 percent of final average salary will be paid.
- For each additional child, the benefit will be increased by 10 percent of final average salary, up to a maximum of 60 percent. This benefit is divided equally among the children.

Benefits will be paid to the children's guardian until the children are age 18. If a child is still eligible at age 18, benefits will be paid directly to the child. If you have created a trust for your children, benefits attributable to the children may be paid to the trust.

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## Adding a Spouse After Retirement

If you do not have an eligible surviving spouse, you may choose a survivor option under certain circumstances. To be eligible, you must:

- Have no property division legal orders which attach the retirement benefit;
- Have no qualified ex-spouse under RCW 41.26.162(1); and
- Make the selection during a one-year window that begins on the day of your first wedding anniversary and ends the day before your second wedding anniversary.

## Other provisions concerning your disability benefits

### Appealing a Decision

If the disability board denies your application for disability benefits or cancels your disability retirement benefit, you have 30 days to appeal the decision to DRS. If DRS reverses the disability board's decision to grant you a disability retirement benefit, LEOFF will send you a copy of the Order of Reversal and will advise you of your appeal rights.

DRS does not have the authority to accept appeals of disability board decisions concerning medical services or whether a disability retirement should be classified as duty or non-duty related. Persons aggrieved by such local disability board decisions must seek relief in the courts (See RCW 7.16.040.) If you have any questions about your appeal rights, contact LEOFF.

### Errors

If there is an underpayment of your retirement benefit, LEOFF will correct the error and pay you in full. If you receive an overpayment, DRS will require that the overpayment be repaid.

### Taxation and Assignment of Benefits

If you retire for service or non-duty disability, most of your benefit is subject to tax. You must complete a W-4P form to tell LEOFF how much of your benefit should be withheld for taxes. If you do not, LEOFF will follow IRS rules requiring withholding as if you are married and claiming three exemptions. It is your responsibility to declare the proper amount of taxable income on your income tax return. If you retire with a duty disability retirement benefit, your benefit is not subject to federal income tax.

### Assignment and Attachment of Benefits

Your retirement benefits may be subject to assignment or attachment to satisfy court and administrative orders for spousal maintenance and child support, or orders authorized by federal law. LEOFF is authorized to divide pensions between members and ex-spouses based on court-ordered property division. If the divorce decree complies with the applicable law, LEOFF will send the property division payment directly to the ex-spouse. For more information, refer to the publications, *How Can a Property Division Affect My Retirement Account?* and *Can Legal Action Affect My Retirement Account?*

## Where to find more information

Refer to your *LEOFF Plan 1 Member Handbook*, visit the DRS Web site, or contact DRS directly. DRS office hours are 8 a.m. to 5 p.m., Monday through Friday, except legal holidays. Before visiting, please call to schedule an appointment.

#### Send mail to:

Department of Retirement Systems  
PO Box 48380  
Olympia, WA 98504-8380

#### Web site:

[www.drs.wa.gov](http://www.drs.wa.gov)

#### Call:

Toll-free at 1-800-547-6657  
Olympia area call (360) 664-7000

#### E-mail:

[recep@drs.wa.gov](mailto:recep@drs.wa.gov)

For information about obtaining a copy of this publication in an alternate format, contact DRS Publications at 800-547-6657, extension 47278. From the Olympia area, call 360-664-7278.